

Credit Life Still Worst Insurance Ripoff

Credit life insurance is still the nation's worst insurance ripoff, according to a joint CFA-National Insurance Consumer Organization (NICO) study released in May.

"Consumers are overcharged more than \$500 million annually for this insurance, and few consumers need it," said CFA Executive Director Stephen Brobeck.

Entitled *Credit Life Insurance Revisited: A Continuing Consumer Ripoff*, the report updates a 1990 CFA-NICO study of credit life insurance. That report urged state insurance departments to require insurers to increase the proportion of premium dollars paid out as benefits to consumers (i.e., raise and enforce higher minimum loss, or payout, ratios).

The following are among the new report's findings:

1) Only 42 percent of the more than \$2 billion in premiums collected in 1990



CFA's Brobeck (right) and NICO's Hunter released the credit life insurance study at a May Washington, D.C. news conference.

in South Carolina, and Louisiana, for example, payout ratios are less than 30 percent. Only New York has a payout ratio above 70 percent.

3) Since the June 1990 release of the first study, eight states — Alabama, Florida, California, Iowa, New Hampshire, Oregon, Texas, and Wisconsin — lowered credit

life insurance rates. As a result, the nationwide loss ratio improved from 37.9 percent in 1989 to 41.5 percent in 1990.

The report concludes that improved state regulation of credit life insurance is needed, in particular through the enforcement of raised minimum loss ratios of at least 70 percent.

High prices are permitted by a market in which there is virtually no competition, said NICO President J. Robert Hunter. "Borrowers either don't know they've purchased the product, think it's required, or are manipulated in other ways by sellers," he said. "That is why many banks, finance companies, and car dealers sell credit life to more than half of those financing installment purchases."

"Consumers should consider purchasing credit life insurance only from credit unions, which have high payout ratios, or for-profit sellers in states with payout ratios exceeding 50 percent," Brobeck said. "Just saying no to overpriced credit insurance not only will save borrowers a great deal of money, but also will force sellers to lower prices," he added.

1990 Payout Ratios for Credit Life Insurance by State

(Based on a \$10,000 loan at 12 percent APR repayable in 48 months)

NY*	71%
DC	64
ME*	63
VT*	57
PA	55
MD	54
OR	53
AZ	52
NJ, CA	51
WI, FL	50
OH	47
MI, DE	45
MN*	43
NH	42
WV	41
RI, VA	40
IL, WY, MO, WA	39
MA*, ND, UT	38
TX	36
IA	34
NV, TN	33
CT, ID, KY, NE, AR, GA	32
MT, SD	31
AK, IN, KS, CO, AL	30
OK	29
MI, NC, NM, HI	27
SC	26
LA	23

* Net Only

was paid out in claims. Since the loss ratio should be at least 70 percent, this means that policyholders were overcharged more than \$500 million in 1990.

2) Overcharges are greater in some states than in others. In Hawaii, New Mexico, North Carolina, Mississippi, Okla-

Cable Bill Heads For House Floor

The House Energy and Commerce Committee approved cable reregulation legislation on a 31-12 vote June 17 after stripping the bill of its provisions to promote competition to cable.

"We're making progress. We have a bill that takes care of consumers' concerns about skyrocketing cable rates," said CFA Legislative Director Gene Kimmelman. "We'll have to address competition issues when the bill goes to the floor."

The bill, H.R. 4850, would require the Federal Communications Commission to devise a pricing formula for local cable operators to use in setting rates for a basic tier of cable service. Included on that basic tier would be all broadcast networks, including "superstations" such as WTBS out of Atlanta, as well as government, public access, and education channels.

In addition, the bill empowers the FCC to regulate prices for cable services not on the basic tier when it receives a complaint from the local franchising authority or other public entities.

This rate regulation authority would not extend to premium channels, such as HBO and Showtime, although the bill would require all cable systems within five years to allow customers to purchase such channels without having to subscribe to a broader package of services beyond the basic tier.

The bill also would require the FCC to set minimum service standards and maximum prices for equipment and services, with local authorities permitted to set tougher service standards.

The committee adopted on voice vote an amendment offered by Rep. Jim Cooper (D-TN) to allow the FCC to order refunds to consumers when the commission determines that rates are unreasonable.

In order to avoid a referral to Judiciary Committee, the Energy and Commerce Committee stripped the bill of its provision to promote competition by restricting the ability of cable programmers with financial ties to local cable operators to discriminate against cable competitors in the price, terms, and conditions of program sales.

Rep. W. J. "Billy" Tauzin (D-LA) has said he will try to restore the program access provision on the House floor, although a difficult floor fight is expected.

Such a provision, which is included in the Senate bill, is viewed as an essential step toward promoting competition to cable by giving potential competitors, such as satellite distributors and "wireless" cable companies, access to programming at reasonable rates.

Also stripped from the bill to avoid a referral to Judiciary was the bill's retransmission consent provision, which

would allow broadcasters to charge local cable operators for use of their over-the-air signals. This provision, which is strongly supported by the National Association of Broadcasters, is expected to be restored either on the floor or in conference committee.

Meanwhile, Judiciary Committee Chairman Jack Brooks (D-TX) is expected to offer an amendment in the form of legislation passed in June by the Intellectual Property Subcommittee.

Sponsored by Rep. William J. Hughes (D-NJ), the bill would set up a new system of compensating producers and broadcasters for retransmission of their programs.

CFA has raised significant concerns that the Hughes bill would reduce popular sports and other programming on free, over-the-air television and lead to higher consumer prices by promoting program migration to pay-per-view.

The Senate has already given overwhelming approval to a stronger version of the legislation. Differences between the two bills will have to be worked out in conference committee, with a new version sent to both houses for approval.

President Bush opposes the legislation and has threatened a veto, although the Senate, at least, appears to have the votes to override a veto.

New Rule Guts Clinical Lab Improvements Act

The final rule issued by the Health Care Finance Administration (HCFA) to implement the Clinical Laboratory Improvements Act of 1988 puts politics ahead of people's lives by gutting the safety standards incorporated in that legislation, said CFA Research Director Mark Cooper.

Cooper, who made his remarks in comments filed with HCFA and in testimony before the House Committee on Oversight and Investigations, said the rule violates both the letter and the spirit of the act.

Congress passed CLIA'88 in response to a mounting public outcry over shoddy laboratory procedures that were producing inaccurate results which were literally killing people, he said. CLIA'88 empowered the HCFA to regulate all labs and lab personnel directly to ensure accurate, high quality laboratory testing.

"Unfortunately, the Executive Branch has dropped the ball. HCFA seems intent on taking as long as possible to make as few changes as possible," Cooper said.

The rule may actually make matters

much worse, he said, because it legalizes the abuses that the law was intended to correct.

Ignoring the risk to patients in categorizing tests, HCFA has erroneously and illegally downgraded the vast majority of tests from highly to moderately complex, thus dramatically reducing the personnel standards to be applied to most tests. As a result, holders of high school equivalency diplomas will still be doing lab work or operating lab equipment for tests that pose a clear risk to the patient's health if they are mishandled.

Even within the category of highly complex tests, HCFA has lowered the personnel standards compared to the 1967 act, cutting education requirements, reducing training requirements, and allowing "experience" to substitute for training.

HCFA has reduced the number of proficiency tests from four to three per year, despite the fact that Congress explicitly called for quarterly testing, and HCFA has concluded that an 80 percent score on proficiency tests is sufficient. Further-

more, even this weakened proficiency testing is delayed for years.

In the area of cytology, HCFA would allow 100 slides to be read in eight hours, 200 in eight hours for some methods, which violates Congress's intent to reduce the number of slides read in a given day. Furthermore, HCFA allows cytologists to be tested at a rate that is equivalent to only 40 slides per eight hours, which violates the congressional mandate that proficiency test conditions be the same as work conditions.

Remedial action for cytotechnologists who fail a proficiency test would not be required until a second test is failed, up to 45 days later. Even if the second test is failed, HCFA does not require that slides read previously by the cytotechnologist be reviewed.

"As a result of these shortcomings, the goal of CLIA'88 to ensure valid and reliable testing will be frustrated for decades to come, and the public will face the continuing threat of deadly laboratory mistakes," Cooper said.

He advocated a number of steps to improve the rule, including: reversing HCFA's downgrading of tests; extending CLIA'67 personnel standards to all labs while ways to improve those standards are studied; returning to quarterly testing; raising the passing proficiency test grade; if a phase-in is necessary for proficiency testing, beginning with highly complex tests first, with all tests brought into the program within two years; adopting a strict, 80-slide per day work-load limit for cytology testing; requiring a review of a random sample of slides read by a cytotechnologist who fails a proficiency test, with all slides to be reviewed if the random sample reveals poor performance; and setting proficiency testing for cytotechnologists at no less than 10 slides per hour.

"The rule can be saved, if HCFA recognizes the congressional intention of ensuring reliable clinical lab practices and applies sound principles to regulating them," Cooper said. "Many of these were embodied in the proposed rule before election year politics got into the act."

House Passes Sweeping Energy Bill

Congress moved one step closer to passage of sweeping energy legislation when the House gave overwhelming approval to its version of the legislation in late May.

The bill, which last year appeared to be halted by differences over automobile efficiency standards and drilling in the Arctic National Wildlife Refuge, continues to face significant roadblocks.

Causing the current delay is a provision in the House bill that would make it easier for the federal government to override state objections to a high-level nuclear waste dump in Nevada. Nevada's two senators have both said they will do everything in their power to stop the bill until the provision is removed.

In early June they made good on that promise when the Senate attempted to take up the House version and insert its own provisions, a necessary step before a conference committee can be convened. The two Nevada senators objected, forcing the legislation to work its way through the Senate's formal approval process.

Supporters fear that, when the bill returns to the Senate floor, it could be further bogged down by controversial amendments.

Meanwhile, the bill passed by the House retained intact the strong compromise on reform of the Public Utilities Holding Company Act worked out in Energy and Commerce Committee.

The House also added an amendment, sponsored by Reps. Edward J. Markey (D-MA) and James H. Scheuer (D-NY), to limit states' authority to control gas production when controls are used to drive up prices.

The conference committee, once convened, is expected to be lengthy, because of the size of the bill, but sponsors remain optimistic that they will reach a compromise that can win approval in both houses. The president is expected to sign the legislation.

Mortgage Refinancing Bill Introduced

Legislation has been introduced in the House to prohibit current consumer overcharges related to prepayments, ensure that current disclosure and real estate settlement laws apply to mortgage refinancings, and improve the overall regulatory authority and safeguards in the refinancing area.

"If it were to become law, H.R. 5170 would strongly improve the protection for consumers seeking refinanced loans," said CFA Banking Director Peggy Miller in May testimony before the House Banking Subcommittee on Consumer Affairs and Coinage.

The "Mortgage Refinancing Reform Act of 1992," introduced by Subcommittee Chairman Esteban E. Torres (D-CA), would:

- require upfront disclosure of fees associated with refinancing in accord with the Truth-in-Lending law;
- place limits on the penalty fees

lenders can charge for withdrawal of applications when the borrower changes his or her mind based on the fee disclosure;

- apply the Real Estate Settlement Procedures Act to refinancings to help to cut back on kickbacks between attorneys, accountants, real estate brokers, salespeople, and the lenders for referral of clients;
- clarify the rules that govern interest rate lock-in commitments; and
- prohibit the use of the "Rule of 78s" accounting method, which can subject consumers to substantial overcharges when refinancing precomputed loans.

Currently, lenders do not have to disclose fees related to refinancing until the closing of the new loan, when consumers are under pressure to complete the deal and are less able to shop around. This makes it easier for lenders to demand excessive processing and closing fees, Miller said.

Also, in the recent crush of refinancing applications which resulted from lowered interest rates, many lenders were unable to handle the work load. Even though delays were caused by lenders, consumers often were forced to pay the price, either losing the lock-in rate they had been offered, losing the loan altogether, or being forced to accept a higher interest rate.

Miller suggested the following changes to strengthen the bill:

- it should be clarified that the bill's language related to referral kickbacks applies to all residentially secured loans, including debt consolidations;
- language should be added requiring that lock-in of interest rates be enforced as a binding commitment if any delay is caused by the lender; and
- a consumer complaint mechanism should be established that would automatically trigger regulatory enforcement actions.

Public Playgrounds Pose Hidden Perils

A majority of American playgrounds pose hidden threats to our nation's children, according to a nationwide survey of 130 playgrounds released in May by CFA and U.S. Public Interest Research Group.

Each year, nearly 150,000 children playing on public playgrounds are injured seriously enough to require emergency room treatment. At least 17 more children die in playground-related incidents each year.

"Playgrounds do not have to be hazardous to children's health," said CFA Product Safety Director Mary Ellen Fise. "We can save children's lives and reduce the severity of their injuries simply by ensuring that playgrounds — from the equipment to the surfacing to the layout — are designed with safety in mind."

Entitled *Playing It Safe*, the report is based on an investigation of 130 play-

grounds, focusing on the hazards that cause the most serious injuries — falls, impact with moving swings, and head entrapment.

Because approximately 75 percent of all injuries are caused by falls, protective surfacing under and around all play equipment is the most critical factor in playground safety. Yet the report found that 88 percent of the playgrounds surveyed lack adequate protective surfacing.

Another hazard is equipment which contains spaces large enough for a child's feet to enter, but not large enough for the head to pass through. The investigation found that 58 percent contained equipment with spaces that pose a head entrapment hazard that could lead to strangulation.

In addition, severe head and face injuries occur when young children are hit by moving swings. To minimize this risk, swings should be sufficiently spaced

to prevent collisions, and the swing seats should be made of lightweight, impact-absorbing materials.

The survey found that, in 78 percent of the 103 playgrounds with swings, the number and spacing of the swing seats create a risk that a child will be hit by a moving swing. Moreover, in 24 percent of the playgrounds with swings, the swing seats are made of wood, metal, or other rigid material that increases the severity of an injury when a child is hit.

The report calls on state and local governments to adopt CFA's *Model Law on Public Play Equipment and Areas*, which contains detailed provisions addressing safety and design requirements for play areas and equipment. It also calls on parents, school administrators, child care providers, and parks personnel to evaluate their local playgrounds and to work to make their playgrounds safer.

House Urged To Pass Radon Legislation

Radon legislation under consideration in the U.S. House of Representatives would save lives by increasing testing and mitigation and would protect consumers in radon-related transactions, said CFA Product Safety Director Mary Ellen Fise in June testimony before the House Subcommittee on Transportation and Hazardous Materials.

Fise testified on behalf of CFA, American Cancer Society, American Lung Association, American Public Health Association, and U.S. Public Interest Research Group in support of H.R. 3258, the "Radon Awareness and Disclosure Act of 1991."

Exposure to residential radon is estimated to cause between 7,000 and 30,000 deaths per year in this country, making it the second leading cause of lung cancer deaths. While many people are aware that radon is a health hazard, there is still "serious misunderstanding about the means of detection and the adverse health consequences," Fise said.

The bill would reauthorize three programs which form the centerpiece



CFA's Fise urged passage of radon legislation.

of Environmental Protection Agency (EPA) efforts to increase public awareness of the need to test and mitigate homes for radon, including technical assistance and grants to states for radon

programs and regional radon training centers.

Without the support of these programs, particularly the grants program, "we fear that many states would abandon their

radon program in whole or in part," Fise said.

In addition to reauthorizing these existing programs, the bill would launch new initiatives to reduce radon exposure, including testing of schools and development of a medical community outreach program.

Finally, H.R. 3258 would require that radon test devices meet minimum performance criteria and that radon contractors meet a minimum level of proficiency. These basic consumer protections are important, Fise said, because radon offers a "perfect opportunity for deception and fraud — consumers paying money to fix a problem they can't see."

Fise suggested two amendments to the bill: one to allow EPA to award funds under the state grants program to local entities as well as to states; and one to provide for consumer and public health organization representation on the President's Commission on Radon Awareness created under the bill.

The Senate has already passed radon legislation.

Appraisal Certification Limits Hurt Buyers

Efforts by federal regulators to loosen real estate appraiser certification requirements are detrimental to low and moderate income consumers and should be stopped, according to a CFA study released in late May.

The CFA study, which analyzes the pricing and availability of residential appraisers, was prompted by the decision of the Office of Thrift Supervision, Office of the Comptroller of the Currency, and the Federal Deposit Insurance Corporation to allow real estate appraisals to be conducted by uncertified appraisers for residential transactions involving real estate valued at less than \$100,000.

The agencies justified the action on the grounds that certification requirements were driving up costs of appraisals for low income residential purchases.

"Based on our survey results, claims that appraisal certification drive up appraisal costs are a myth," said CFA Research Associate Carla Feldpausch.

Particularly in times of falling real estate prices, when a ballooned appraisal esti-

mate can mean future inability to sell without substantial loss, a realistic appraisal is worth thousands of dollars to the purchaser of a home, Feldpausch said.

Because oversight by state governments is required, licensing and certification requirements can help ensure a quality appraisal.

Since more than 50 percent of all homes purchased are valued at less than \$100,000, raising the de minimis level for transactions requiring certified appraisers to \$100,000 would deny low and moderate income consumers the protections offered by certification, she said.

CFA surveyed 80 appraisal firms in 20 U.S. cities. The following are among the

survey's most significant findings:

- no correlation exists between the cost for an appraisal and the licensing or certification level of the appraiser;
- within standardized criteria, no correlation exists between the cost of an appraisal and the value of the real estate in a residential area to be appraised;
- appraisers' availability to perform work is completely adequate to meet consumers' needs for timely completion of appraisals; and
- virtually all appraisers surveyed had some form of certification or licensing, either through a private organization or through state certification.

"Uncertified appraisals arranged by a

real estate broker intent on finalizing a deal can subject a low income person to false appraisals that simply put the house value at the contract price without evaluating the market or the site properly," said CFA Banking Director Peggy Miller. "Removing the certification requirements for low income consumers reopens the floodgate for real estate scams, insider deals, and other fraudulent behavior that rips off the consumer for the benefit of the broker or banker," she added.

In May testimony before the House Banking Committee on recent actions by the federal financial regulators, Miller called on Congress to lower the de minimis level for appraisal certification to \$10,000.

A Consumer Plan for the Information Age

Rather than spend hundreds of billions of dollars on fiber optic cable over the next decade, the nation needs a vigorous effort to implement a Narrowband Integrated Services Digital Network (N-ISDN), CFA concluded in a report released in June.

N-ISDN combines copper wires with known digital technology, uses personal computers as a platform, and requires no radical change in regulatory policy, according to CFA Research Director Mark Cooper, author of *Developing the Information Age in the 1990s: A Pragmatic Consumer View*.

"By intelligently exploiting the networks that are already in place, the small business and residential markets can get all of the services they want at a fraction of the cost of deploying a fiber optic network," Cooper said.

Because it is a natural evolution of existing technology, costs and demand are reasonably well known, and significantly enhanced home and business-oriented services can be delivered in the near term.

As narrowband evolves into wideband through technological advances, the cop-

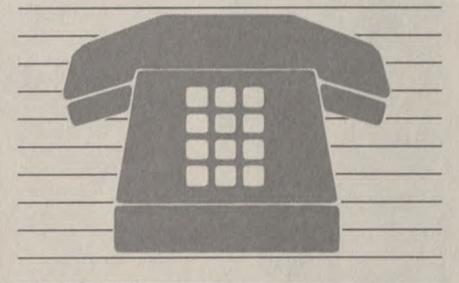
per network will support ever faster data services and even high quality video. Meanwhile, a variety of other, non-network technologies will also evolve to meet consumer demands.

Released at the mid-year meetings of the National Association of State Utility Consumer Advocates, the report also outlines the serious problems faced by the broadband network being pushed by a number of the Regional Bell Operating Companies.

These include the dramatically higher costs to deploy an interactive fiber optic network; uncertain operating costs for such a complex network; and diseconomies of scale and integration resulting from centralized computing, congestion, and conflicting design demands of a complex, multi-service network.

CFA will be taking its proposal to state legislatures and public utility commissions "as the positive, pro-consumer program for modernizing the network," Cooper said.

The report outlines a comprehensive regulatory plan to implement the proposal, including: immediate rate reduc-



tions; treatment of ISDN as an extension of basic service, not a profit center; cost and revenue allocation rules to ensure that basic telephone ratepayers do not subsidize ISDN services and that profits contribute to lowering basic rates; and deploying fiber optic cable only when demand for band width exceeds the capacities of a fully developed copper network.

"Someday we will evolve to a ubiquitous broadband fiber optic network, but it is not justified today, and it will not make economic sense until the capabilities of the current network have been fully and intelligently developed," Cooper concluded.

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Consumer Issues At Center Of Energy Debate

As the "first major energy bill in a decade" moves into conference committee, two of the most contentious issues will be consumer issues, predicted Rep. Edward J. Markey (D-MA) in a keynote address at CFA's May conference on "Consumers and Utilities: Meeting Consumer Telephone, Electric, and Natural Gas Needs in a Decade of Change."

Rep. Markey pledged his support to keep provisions in the final bill to limit the ability of states to use natural gas prorationing to boost prices and to guarantee access to electricity transmission lines for qualified generators and purchasers of power.

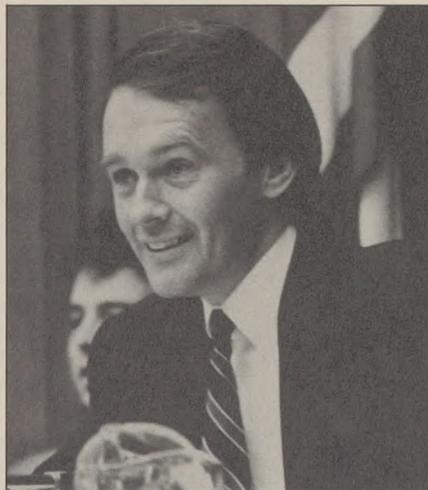
Both provisions are included in the House bill but are absent from the Senate version.

Recently, Oklahoma passed legislation that would allow the state to limit natural gas production for the sole purpose of driving up prices, and Texas has been considering a similar policy, Rep. Markey said.

This led to an immediate price surge that, if unchecked, would add between \$6 and \$10 billion to consumers' gas bills, he said.

The day after his pro-rationing amendment passed, however, the price of gas fell seven percent, he said. He predicted that consumers would get back all of the increase if the Senate accepts the House provision.

Rep. Markey also argued that consumers would not get the benefits of deregulation in the electric utility industry unless transmission access is guaranteed.



Rep. Markey delivered a keynote address at CFA's utility conference.

"Competition is not possible without transmission access," he said. "Deregulation alone does not promote competition. In fact, very often it inhibits it."

A Regulatory Perspective

As competition and diversification increase and utility regulation evolves to meet those changes, it becomes increasingly difficult for regulators to know "what the term 'pro-consumer' really comprehends," said Peter A. Bradford, Chairman of the New York Public Service Commission.

"The real challenge is to devise and implement a pervasive set of incentives and penalties" that would encourage utili-

ty companies to behave in ways that ultimately would benefit ratepayers, he said.

Both utilities and consumer groups have resisted such changes, but they are inevitable if regulation is to keep pace with the changes in the industry, he said.

While he acknowledged that such a system would make mistakes, Bradford questioned whether those errors would "really result in mistakes and overcharges of the magnitude of those revealed in energy and telecommunications in the last 20 years."

In developing new policies, regulators should keep in mind that, "where we have genuinely expanded consumer choice, without commitment to subsidy or short-cuts, we have never regretted it afterwards," he said. "We have always regretted major national commitments to a particular technological outcome."

Modernizing the Phone System

It is just such a commitment that Harry M. Shooshan III, Vice President with National Economic Research Associates, Inc., said the nation should make to bring about a universal broadband fiber optic network.

In a session on "Modernizing the Phone System: Pro-Consumer Strategies," Shooshan argued that all consumers will benefit from the existence of this network, so all should help pay for it.

Irwin A. Popowsky, Consumer Advocate for the Commonwealth of Pennsylvania,

said that "the real question that has to be answered is whether that is the most economical way to get the services people want into their homes."

Jerry J. Berman, Director of the Washington Office of the Electronic Frontier Foundation, argued that there "are near-term choices, before we ever get to fiber optics, using the existing technology" that would dramatically expand the capability of the copper network and provide the services in the near term that people want and need.

Is Diversification in the Consumer Interest?

When utilities diversify into unregulated competitive ventures — such as allowing telephone companies to offer information services — "the disasters are so large and the benefits are so small that we'd be better off with divestiture," said CFA Research Director Mark Cooper in a session on "Diversification: In the Consumer Interest?"

Ronald L. Lehr, a former Commissioner with the Colorado Public Utilities Commission, said that "there are probably some diversifications that are in the public interest," but consumer groups are right to be skeptical and insist on adequate protections.

Frederick S. Potter, Vice President for Corporate Development with DQE, Inc., said diversification does not put ratepayers at risk, because "the core business is separate and discreet; that's the end of the story!"



Sen. Tom Harkin (D-IA)



Rep. Jack Brooks (D-TX)



Rep. Jim Leach (R-IA)



Rhoda H. Karpatkin



Sylvia Gambardella

22nd Annual Awards Dinner

The Consumer Federation of America honored distinguished consumer service at its 22nd Annual Awards Dinner Wednesday, June 17.

Sen. Tom Harkin (D-IA) and Rep. Jack Brooks (D-TX) received Philip Hart Public Service Awards, and Rep. Jim Leach (R-IA) received a Special Recognition. The Philip Hart Distinguished Consumer Service Award was presented to Rhoda H. Karpatkin, Executive Director of Consumers Union. Sylvia Gambardella, Consumer Reporter for WCCO-TV in Minneapolis, received the Outstanding Consumer Media Service Award.

The awards dinner was held at the Capital Hilton Hotel in Washington, D.C.

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